

# General Terms and Conditions for Storage

## John I. Haas, Inc.

**Effective Date: December 1, 2018**

**1. Nature of Agreement.** These General Terms and Conditions for Storage (“Terms and Conditions”) shall govern all Hop Storage Contract(s) (“Storage Contract”) for which John I. Haas, Inc. (“Haas”) provides storage space for warehousing raw hops and/or other hops-related products (the “Products”). These Terms and Conditions and the Storage Contract(s) now or in the future executed between Haas and the owner of such Products (“Owner”) are referred to collectively herein as the “Storage Agreements”.

These Terms and Conditions constitute the entire agreement between Haas and Owner with respect to such Storage Agreements, except for such details of price, quantity, and term as would normally be specified by Storage Contracts. **The parties intend that the Storage Contract(s) shall incorporate by reference all of the provisions of these Terms and Conditions. However, in the event of any inconsistency in the terms of the Storage Agreements, the specific terms of the applicable Storage Contract shall control.**

**2. Quantity, Price, and Term.** For each Storage Contract, Haas agrees to provide storage for Owner’s Products as described in the applicable Storage Contract at the price stated thereon. Unless detailed differently on the face of the Storage Contract, the price stated is applicable from the date Products are first received by Haas until the subsequent July 31<sup>st</sup>, given that such time period covers at least 60 days. By June 30<sup>th</sup> of each year, Haas will provide Owner with the pricing that will take effect beginning the next August 1<sup>st</sup>.

For example, if Haas first receives Owner’s Products on September 15, 2018, then storage pricing is as detailed on the Storage Contract from that date until July 31, 2019 (or until Products are removed from storage, whichever happens first). By June 30, 2019, Haas will inform Owner of any changes to pricing that will take effect on August 1, 2019, for any Products from the original Storage Contract that remain in storage on that date.

Either party may terminate a Storage Contract by providing a written notice of termination to the other at least 90 days in advance of the termination.

**3. Title.** Owner shall retain all right, title, and interest in and to the Products. Haas will provide Owner with access to the Products with reasonable prior notice.

**4. Warehousing.** Products may be stored in different warehouses under Haas’ supervision and control. Haas agrees to maintain and operate the warehouses in accordance with normal and customary standards for the operation of hop warehouses in Washington and Oregon States. Notwithstanding, Haas retains the right to reject or return any Products if Haas, in its sole discretion, has reason to believe that such Products may be a safety, fire, or other hazard.

- 5. Receiving.** Haas will follow Owner's reasonable written requests for receiving and shipping of the Products, consistent with such additional requirements outlined on the Storage Contract, if any. Prior to receiving Products, Haas will provide Owner with specific delivery instructions and Owner will provide reasonable inventory detail as may be requested by Haas.
- 6. Reports.** Haas will provide Owner with periodic inventory, shipping, and receiving reports as reasonably agreed to between the parties.
- 7. Invoicing.** Payment of all amounts owed under the Storage Agreements will be detailed by Haas in monthly invoices delivered to Owner; payment is due and payable in full within thirty (30) days. A one and one half percent (1.5%) per month finance charge shall accrue on any unpaid balance. Owner agrees to pay all costs, including attorney's fees and/or collection fees, incurred in collecting all amounts past due under the Storage Agreements.
- 8. Insurance.** Haas shall maintain customary fire and extended coverage or direct damage insurance on Owner's Products delivered under the Storage Agreements, with respect to all incidents customarily covered by Haas' insurance policy(ies) for a value at least equal to the lesser of the i) actual value to Owner under any written contract for the sale of the Products or ii) spot market value of the Products on the date of delivery to Haas. Said insurance coverage shall apply only for the period Owner's Products are on premises owned, leased, rented, or otherwise operated by Haas for purpose of Product storage or when transporting Owner's Hop Products by Haas.
- 9. Limitation on Warranties and Damages.** Haas warrants only that it will use standard industry storage practices. Owner agrees that the sole and exclusive remedy of Owner for any breach of Haas' limited warranty set forth above shall be (a) the highest "replacement cost" value of the Products plus storage fees paid by the Owner, or (b) replacement of any defective or nonconforming Products of like-kind products, but only to the extent such like-kind products are available from Haas' inventory. Notwithstanding any provisions in the Storage Agreements, the parties agree that any single damage claim against the other party shall not exceed the amount of Two Million Dollars (\$2,000,000.00) under each Storage Contract.

Except as set forth in this paragraph, Haas makes NO REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, EXCEPT AS EXPRESSLY STATED IN THIS AGREEMENT, AND HAAS HEREBY DISCLAIMS ANY AND ALL OTHER WARRANTIES, EXCEPT TO THE EXTENT PROHIBITED BY APPLICABLE LAW. EXCEPT FOR HAAS' OBLIGATION TO REPLACE NONCONFORMING HOP PRODUCTS AS SET FORTH ABOVE, HAAS SHALL NOT BE RESPONSIBLE OR LIABLE TO OWNER, USERS OF THE FINISHED PRODUCTS, OR ANY THIRD PARTIES FOR LOSS OR DAMAGES ARISING FROM THE USE OF THE HOP PRODUCTS INCLUDING, BUT NOT LIMITED TO, LOSS OF USE, PERSONAL INJURY OR DEATH, PROPERTY DAMAGE, WHETHER DIRECT OR INDIRECT, AND SPECIFICALLY INCLUDING INCIDENTAL AND CONSEQUENTIAL DAMAGES.

- 10. Warehouse Lien.** Haas shall have a warehouse lien, pursuant to RCW 62A.7-209, as may be amended, for all lawful charges for storage and preservation of the Products

(“Warehouse Lien”). The Warehouse Lien shall cover all lawful claims for money advanced, interest, insurance, transportation, labor, and all other charges and expenses relating to the Products, and for the balance on any other accounts with Haas that may be due. The Warehouse Lien shall also cover all charges, advances, and expenses with respect to any other goods stored by the Owner in any other facility owned or operated by Haas. In order to protect the Warehouse Lien, Haas reserves the right to require advance payment of all charges prior to the shipment or receipt of Products.

**11. Force Majeure.** Neither party shall be in breach of its obligations (other than payment) for failure to perform due to force majeure, including war or insurrection, civil commotion, acts of nature, government actions or laws, strikes or lockouts, fire, rioting, terrorist acts, threats or risk to personal safety of employees, material shortages, or unforeseen business interruptions occurring through no fault of the party.

**12. Non-Disclosure.** Each party will (i) keep confidential, and not disclose, and (ii) use only in connection with business transactions between the parties, all of the other party’s Confidential Information that may be learned in the course of the parties’ relationship, including after that relationship ends. “Confidential Information” means all information that a business would normally keep to itself, and specifically includes manufacturing processes, pricing, product descriptions, contract terms, technical data, the nature of business relationships, product know-how, identity of customers, details of the Hop Products located in Haas’ facilities, sales and market projections, strategies, business practices, and financial information. All Confidential Information will be protected by each party with at least the same degree of care as each would use with its own proprietary information. All Confidential Information will remain the property of the party initially possessing it.

**13. Independent Parties.** The parties to this Agreement are independent parties. Neither is the agent, employee, or partner of the other. Neither can bind the other in any way. Each is responsible for its own liabilities and will indemnify and hold the other party harmless from those liabilities.

**14. General Provisions:**

a. **Cooperation – Further Documentation.** The parties covenant to provide each other with such further documents (and to duly execute the same) as either of them may deem to be necessary or appropriate to complete or document the relationship contemplated by the Storage Agreements, consistent with the spirit of the transactions described herein.

b. **Applicable Law and Jurisdiction.** The exclusive jurisdiction for resolution of any claims between the parties shall be the Superior Court of the State of Washington in and for the County of Yakima. Any and all claims arising between the parties shall be governed by the law of the state of Washington, without reference to its principles of conflicts of law.

c. **Costs, Expenses & Attorneys’ Fees.** In event of any dispute arising out of or

relating to the Storage Agreements, whether or not suit or other proceedings is commenced, and whether in mediation, arbitration, at trial, on appeal, in administrative proceedings, or in bankruptcy (including without limitation any adversary proceedings or contested matter in any bankruptcy case), the prevailing party shall be entitled to its costs and expenses incurred, including reasonable attorney fees.

d. ***Binding Effect.*** To the extent not expressly prohibited by the Storage Agreements or applicable law, the Storage Agreements shall bind and inure to the benefit of the parties and their respective heirs, successors, assigns, and legal representatives.

e. ***Notices.*** Notices under the Storage Agreements shall be in writing and, unless otherwise required by law, may be delivered personally; by U.S. mail, certified or registered; by a nationally recognized overnight courier service; or by email transmission, if such email is sent to an authorized representative with confirmed receipt. Mailed notices shall be deemed effective on the third day after deposited as registered or certified mail, postage prepaid, directed to the other party at the address shown above. Couriered notices shall be deemed delivered when the courier's records indicate that delivery has occurred. Email notices shall be effective upon the time of read receipt confirmation. Either party may change its address (physical or email) for notices by written notice to the other.

f. ***Modification.*** No modification, amendment, waiver or change of these Terms and Conditions shall be effective or valid unless signed by both parties.

g. ***Severability.*** The invalidity, illegality, or unenforceability of any portion of the Storage Agreements shall not affect, impair, invalidate, or otherwise nullify or void any other portion of the Storage Agreements or the Storage Agreements itself.

h. ***Binding Agreement/Assignment.*** By signing a Storage Contract that references these Terms and Conditions, the parties represent that they have read and have fully understood the terms and conditions of the Storage Agreements and agree to be bound thereby. Neither party shall have the right to assign their rights or obligations under the Storage Agreements without the prior written approval of the other party.

i. ***Waiver of Jury Trial.*** HAAS AND OWNER EACH HEREBY WAIVE THEIR RESPECTIVE RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THE STORAGE AGREEMENTS OR ANY TRANSACTION CONTEMPLATED BY THE STORAGE AGREEMENTS, INCLUDING CONTRACT CLAIMS, TORT CLAIMS, BREACH OF DUTY CLAIMS, AND ALL OTHER COMMON LAW OR STATUTORY CLAIMS. IN THE EVENT OF LITIGATION BETWEEN THE PARTIES, A COPY OF THESE TERMS AND CONDITIONS AND ANY STORAGE CONTRACTS MAY BE FILED AS A WRITTEN CONSENT TO TRIAL BY THE COURT.